COMPETITION, REGIONAL INTEGRATION, AND WOMEN-OWNED BUSINESSES IN THE CONTEXT OF THE AFRICAN CONTINENTAL FREE TRADE AREA (AFCFTA)

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Introduction

Opening markets to reach more than 1.2 billion people in Africa and accounting for a combined gross domestic product of more than $3.4 trillion USD[2], the AfCFTA has phenomenal potential to spur industrialisation and drive growth through boosted intra-African trade. The AfCFTA seeks to remove tariffs on 90% of goods, open up trade in services, and address a range of non-tariff barriers, making Africa the largest free trade area in the world in terms of number of participating countries.[3] Through the free movement of goods, services, businesses, persons and investments, as well as better harmonization and coordination of trade, the AfCFTA aims for greater and more seamless intra-regional and intra-continental trade.

This presents economic opportunities for small and medium-sized enterprises (SMEs) and women-owned businesses, allowing them to benefit from production at greater scale, access to inputs and access to more diversified markets through intra-continental trade. It opens up markets for wider participation, value addition and technology transfer at different levels of value chains[4], providing an avenue for structural transformation in different sectors.

However, SMEs and women-owned businesses face several barriers to entry and expansion. For the opportunities presented by the AfCFTA to materialise, these challenges need to be understood and addressed. These include strategic barriers created by a firm or groups of firms with market power that marginalise(s) and exclude(s) rivals through anticompetitive behaviour.

This brief highlights the opportunities and challenges faced by women-owned business in the wake of the AfCFTA and provides recommendations for inclusive regional competition policy and coordinated regional industrial policy interventions.

What is anticompetitive conduct?

Anticompetitive conduct by a single dominant firm or a group of firms with market power refers to a wide range of business practices that limit or restrict competition to maintain or increase own profits and market positions. Competitors and new businesses, including SMEs and women-owned businesses, can be harmed

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[2] https://www.tralac.org/resources/by-region/cfta.html, accessed 7 September 2020.
[3] Songwe, V. (2019). Intra-African trade: A path to economic diversification and inclusion. In 'Foresight Africa: Top Priorities for the Continent in 2019", Brookings Institute;https://www.worldbank.org/en/topic/trade/publication/the-african-continental-free-trade-area, accessed 8 October 2020.
[4] Albert, T. (2019). The African Continental Free Trade Agreement: Opportunities and Challenges. Geneva: CUTS International, Geneva.

in the process. Firms engaging in such conduct do not necessarily provide cheaper or better quality goods and services or invest in greater innovation. As a result, consumers can also be harmed.

Anticompetitive conduct can take the form of abuses of dominant positions or can result from a group of firms acting collectively. Common forms of anticompetitive conduct and hypothetical examples are given in Box 1.

Box 1: Examples of possible anticompetitive conduct

Abuse of dominance conduct	Examples
Exclusionary conduct refers to strategies that a dominant firm engages in to deliberately exclude or squeeze out its competitors/rivals. These include, but are not limited to:	
1. Squeezing margins of competitors when the dominant firm controls one or more levels of the value chain.	1. A dominant supplier of leather in the upstream market also manufactures leather shoes in the downstream market. It charges a higher price for leather to the other, independent shoe manufacturers (its rivals) than to its own shoemaking operations. Its own shoemaking operations can therefore sell to customers cheaper than its rivals can. Rivals' margins are squeezed given higher input costs and lower selling price, forcing them out of business.
2. Refusing to supply a critical or essential input, or supplying on poor or unprofitable terms.	2. The only forestry plantation owner in the region refuses to sell logs to an independent downstream sawmiller, or it only sells logs to the sawmiller on poorer terms than it does to its own downstream sawmilling operations. For example, it sells poor quality logs to the independent sawmill relative to what it sells to its own sawmills. This makes the independent sawmill less competitive.
3. Exclusive dealing imposes restrictions on the freedom to choose who to trade with.	3. A large, well-known carbonated soft drink producer sells its popular soft drink brand to a small retail shop for on-sale. It however imposes a condition that the retailer is not allowed to deal with any other competing soft drinks producers and must only sell its soft drinks in the shop.
4. Selling at below a measure of costs, or predatory pricing, to drive rivals out of the market.	4. Upon the entry of a new private bus company in a particular town, the incumbent national bus company reduced its bus fare in that town to a level that did not cover its own costs. It was able to survive given high fares in other towns. The new bus company could not survive and exited the town. Once it left, the incumbent bus company raised its fares again in that town.
5. Tying sales or forcing unrelated contract conditions on the sale of a good or service.	5. A large seller of office printers insists that buyers who purchase printers from it, also purchase bi-annual service packages from it if the warranty is to be upheld. This means that the buyer is not able to procure cheaper, independent services providers.
6. 'Leveraging' of market power in one market to get an undue advantage in a related market (including by tying)	6. A large online search engine favours its own online comparison shopping website over rivals' comparison shopping websites. It does this by placing results of a shopper's search from its own comparison shopping website at the top of the search results page, while demoting rivals' shopping sites to page 5 or 6 of the search. Most shoppers do not scroll to later pages and end up using the large firm's shopping website. It therefore 'leveraged' its market power in the online search market to gain an undue advantage in the comparison shopping market at the expense of rivals.

Box 1 cont.: Examples of possible anticompetitive conduct

Exploitative conduct refers to imposing unfair purchase or selling prices or other unfair trading conditions to exploit customers or suppliers:	
6. Charging an excessive or unfair price.	6. The dominant producer of steel sells construction steel bars at a 1200% margin over all costs of manufacturing the product. Its prices are also 90% higher than prices of the same product in another country.
7. Price discrimination by charging different prices for the same product to different customers.	7. A pharmaceutical company selling painkillers for cancer patients charges 300% more to community hospitals than it does to private hospitals. The costs of producing and delivering the drugs are the same for both hospitals.
8. Exploiting buyer power to extract greater profits at the expense of suppliers.	8. A supermarket chain with over 2000 stores in the region is able to force suppliers to pay fees to list their products with the chain. It is also able to impose 90-day payment terms to suppliers for goods purchased, which causes serious cash flow constraints for suppliers. Suppliers have no choice but to accept these terms if they want to reach a large number of customers through the supermarket chain.
Cartel, collusion, coordinated conduct or concerted practices	**Examples**
1. Price fixing	1. Four bakeries agreed between each other to fix the price of brown bread loafs at 85 cents each. They also agreed to collectively raise the price of bread by 15c at the end of each quarter.
2. Market allocation	2. Two suppliers of cement allocated markets between them by dividing their sales in the country. Supplier 1 agreed to only sell in the northern regions of the country, while Supplier 2 agreed to only sell in the southern regions of the country.
3. Collusive tendering	3. Five construction companies decided amongst themselves to take turns to 'win' government tenders for a multi-year housing project. They achieved this by ensuring that the allocated firm to win each year put in the cheapest bid, while the other purposely put in higher bids so they would not win for that round.

Source: Author's own construction

National and regional anticompetitive conduct

Some countries like South Africa, Zambia, and Kenya have well-established competition laws. Looking at competition cases investigated, and to a lesser extent prosecuted, by the South African authorities over the past 15 years, some dominant firms have abused their market power in highly concentrated markets.[5] Such conduct prevents new businesses, including women-owned businesses, from participating in value chains.

Such conduct is also not limited to national borders. Opening up of markets poses the risk of anticompetitive conduct extending to other regions in Africa, and the AfCFTA should create a framework that prevents anticompetitive conduct spilling over borders. Large multinational businesses are more easily able to expand across countries and can act unilaterally or in collusion with other regional players.[6] Behaviour and strategies of dominant firms in one country can extend to other countries to which they export. Cross-border cartels, for example, have been found to cause greater and longer lasting damage than national cartels, with higher

[5] Roberts, S. (2017). Assessing the record on competition enforcement against anti-competitive practices and implications for inclusive growth. REDI3x3 Working paper 27.
[6] Bosiu, T. and Vilakazi, T. (2020). Competition and inclusive regional economic growth in food production. Barriers to entry and the role of African multinational corporations. UNU-WIDER Working Paper 88/2020

price-raising effects.[7] Anticompetitive conduct in one country can spill into other countries in the region as firms extend their geographic footprint across borders . This creates barriers to entry, participation, and expansion for women entrepreneurs, distorting trade and undermining regional economic integration.

Yet, few cross-border competition transgressions have been investigated and prosecuted on the continent, even when the same firms that have been implicated in anticompetitive conduct in one country have operations in, or export into, neighbouring countries.[8] This could be due, in part, to the fact that the mandates of national competition authorities do not extend to prosecuting regional impacts. To address this issue, there are regional competition bodies and frameworks that exist, which serve to address competition problems that have regional impacts. Such bodies include the East African Competition Authority, the COMESA Competition Commission and Economic Community of West African States (ECOWAS) Regional Competition Authority, as well as the Southern African Development Community (SADC) declaration on Regional Cooperation in Competition and Consumer Policies.

There are also informal cooperation networks in place that promote the adoption of competition principles nationally and regionally as well as share knowledge and provide training. One example is the African Competition Forum that is comprised of African national and multinational competition authorities. Although the number of countries adopting competition laws doubled in 2019 (31 countries total)[9], most national competition policy frameworks are either non-existent, fairly new, or underdeveloped.

Under Article 4(c), the AfCFTA requires member states to cooperate on investment, intellectual property rights, and competition policy, following forthcoming negotiations under Phase 2 (Article 7). While the details of this cooperation are to be determined, the principle of '*preservation of the acquis*' in Article 5 means that the existing competition institutions, both national and regional, will be the foundations on which new cooperation will build.[10]

Anticompetitive conduct affects the prospects for some businesses to participate meaningfully and thrive in Africa, which can limit the benefits that the AfCFTA offers. SMEs and women-owned businesses may depend on inputs controlled by a dominant player that abuses its position or inputs that are in cartelised markets, affecting cost and access. Similarly, buyers such as large supermarket chains, wield considerable buying power that can result in the exclusion of SME suppliers, undermining the opportunities that emerge as regional integration deepens. Therefore, inclusive growth at the regional level requires markets to ensure that the gains from growth and development are shared widely and not concentrated in the hands of a few.

Opportunities and challenges

Opportunities

In several value chains, there are opportunities for women-owned businesses to enter at a small scale and grow as they build capabilities to serve wider markets. Intra-African exports have, to date, been disappointingly low, growing from 10% of total African exports in 1995 to only around 17% in 2017.[11] The levels of intra-regional trade and integration, however, vary widely in the different Regional Economic Communities (RECs), with the highest being in the Southern African Development Community (SADC).[12] The AfCFTA is expected to boost this significantly. Estimates show that the AfCFTA has the potential to increase

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[7] Connor, J.M. and Lande, R.H. (2006). The size of cartel overcharges: implications of US and EU fining policies. The Antitrust Bulletin, 51(4), pp.983 – 1022; Connor, J.M. (2011) Price effects of international cartels in markets for primary products. Materials of the symposium trade in primary markets and competition policy at the World Trade Organisation.

[8] Kaira, T (2015). A cartel in South Africa is a cartel in a neighbouring country: Why has the successful cartel leniency policy in South Africa not resulted into automatic cartel confessions in economically interdependent neighbouring countries? Paper presented at the Annual Competition and Economic Regulation Week Southern Africa, 16-21 March 2015, Victoria Falls, Zimbabwe.

[9] IMF (2020). Competition, Competitiveness and Growth in Sub-Saharan Africa. Working paper WP/20/30.

[10] https://www.tralac.org/blog/article/14078-cooperation-on-competition-in-the-afcfta.html and https://www.tralac.org/blog/article/14463-how-will-phase-ii-of-the-afcfta-be-negotiated-ratified-and-implemented.html, accessed on 4 September 2020.

[11] Songwe, V. (2019)

[12] UNCTAD (2019). The Economic Development in Africa Report 2019: Made in Africa – Rules of Origin for Enhanced Intra-African Trade.
https://unctad.org/en/PublicationsLibrary/aldcafrica2019_en.pdf, accessed on 1 September 2020.

the value of intra-African trade by between 15 and 25% in 2040 ($50-70 billion USD) and increase intra-African trade to over 50% of total African trade.[13]

Growing intra-African trade promotes higher value-added manufactured product industries from which women-owned business can benefit. Intra-African trade is characterised by more manufactured and processed goods, increasing the potential for knowledge transfer and creating more value though greater trade.[14] The basket of intra-African traded products in 2014-2016 (average) had a greater proportion of higher value added exports of machinery and electrical equipment, chemical products, processed foodstuffs and other products, than in the basket of African exports to the rest of the world, which has predominantly been minerals and raw material- based.[15] The AfCFTA therefore presents opportunities for women entrepreneurs to participate in higher value-added manufactured or processed product value chains.

There are also significant opportunities for women in primary sectors like agriculture. While there are disputes on the proportion of women in crop production in Africa, with studies suggesting that the often quoted 60 to 80% is an overestimation and that the proportion is more likely to be around 40%,[16] the opportunities at other levels of agroprocessing are significant. The agricultural sector provides key inputs into food processing industries. Food imports from outside the continent accounted for $63 billion USD in 2015, and it is estimated that the AfCFTA has the potential to increase intra-African trade in agricultural products by between 20 and 30%,[17] reducing the dependency on imported food products. As urbanisation increases on the continent, there is a growing demand for processed foodstuffs increasingly sold through supermarket chains. The expanding regional network of large supermarket chains is a conduit through which women-owned businesses can supply these products.

Over the past 20 years, supermarket chains, particularly South African chains, have expanded into the SADC region and less successfully into other regions in Africa.[18] The largest supermarket chain in South Africa, Shoprite Holdings, operates in 14 countries on the continent. Pick n Pay, the next biggest chain, operates in six countries. In East Africa, Kenyan supermarket chains have also grown and spread within the region although large chains have struggled, and some key chains like Nakumatt and Uchumi have closed down.[19] International chains like Carrefour have entered East, West and North Africa, while Walmart entered Southern Africa through its acquisition of the South African chain Massmart. However, these chains have not grown as successfully as the African chains in their respective regions. While different countries rely on alternative retail routes (e.g. wet markets, informal traders and independent retailers) to different degrees, the growing supermarket chain model in Africa has significant implications on suppliers given the control they exert on supply chains.

Women-owned businesses can access supermarket shelves in their respective countries and beyond their borders through the supermarket chain networks. Studies have shown that the growth of supermarkets has driven increased intra-regional trade of processed food and household products in Southern Africa.[20] Meeting supermarket requirements means suppliers have to improve production methods and produce better quality goods to meet supermarket standards. This can allow women entrepreneurs to participate in regional value chains (RVCs)[21] and use these as stepping-stones to supply into global value chains (GVCs) in the future. Studies have shown that suppliers require upgrading to meet cost, quality and volume requirements as well

[13] Songwe, V. (2019), citing United Nations Economic Commission for Africa (2015). “Industrializing through Trade: Economic Report on Africa 2015.” UNECA.
[14] Arndt, C., and S. Roberts (2018). Key Issues in Regional Growth and Integration in Southern Africa. *Development Southern Africa*, 35(3): 297–314
[15] UNCTAD (2019)
[16] Christiaensen, L., and L. Demery, eds. (2018). Agriculture in Africa: Telling Myths from Facts. Directions in Development. Washington, DC: World Bank. doi:10.1596/978-1-4648-1134-0. License: Creative Commons Attribution CC BY 3.0 IGO
[17] Songwe, V. (2019)
[18] das Nair, R. (2019). The spread and internationalisation of South African retail chains and the implications of market power, *International Review of Applied Economics*. Vol 33, Issue 1.
[19] https://www.standardmedia.co.ke/the-standard-insider/article/2001385588/crisis-what-crisis-asks-supermarkets-boss, accessed on 8 September 2020
[20] das Nair, R, Chisoro, S & F. Ziba (2018). Supermarkets’ procurement strategies and implications for local suppliers in South Africa, Botswana, Zambia and Zimbabwe. *Development Southern Africa*, Special Issue - Regional Growth: Prospects and Policies
[21] RVCs refer to value chains in which manufacturers/processors/suppliers and buyers operate within one region (for example, within Africa or within RECs). In Africa, there are eight AU-recognised RECs playing key roles in pursuing regional integration (UNCTAD, 2019).

as legal and private standards of supermarket chains. This comes at a significant cost, particularly for smaller suppliers as highlighted in Box 2.[22]

Nonetheless, the spread of supermarket chains can bring opportunities for women-owned businesses by opening routes to wider markets. For instance, women-owned businesses can supply house brands or private labels to supermarket chains, a growing trend of supermarket chains in Africa. House brands are products branded as the supermarket's own brand or product lines made specifically for the supermarket chain. South African supermarket chain Pick n Pay, for example, has a well-established house brand called 'No Name' across a wide range of food and non-food products. These products are manufactured by suppliers specifically for Pick n Pay, and many of these suppliers also manufacture their own brands of the product. For house brands, suppliers do not have to invest in building their own brand reputation and in advertising. This means that house brands are often cheaper than branded products. These offer opportunities for SME suppliers, who haven't yet built their own brand name, to get a foot in the door of supermarket chains.

In turn, SMEs and women entrepreneurs can benefit from the growth of suppliers stimulating business upgrading at other levels of value chains. For instance, companies that supply packaging and labelling material to food processing firms can benefit from growth in demand for processed foods. Similarly, logistics, cold chain infrastructure providers, and other ancillary services that support the food processing industry can grow if the food or agroprocessing sector grows.

Challenges

However, there are numerous challenges that women-owned businesses, and SMEs more broadly, currently face which limit participation and trade in different value chains. They face structural barriers, which include those related to the physical transfer of goods, such as transport costs, border delays and regulatory requirements, in addition to common barriers like accessing finance.

There are also strategic barriers that result from uneven power dynamics in many value chains, which affect firm entry and development. The control and governance of several RVCs in Southern Africa in terms of ownership, production, and investment remains in the hands of a few large regional or global multinationals.[23] The control of value chains by a few dominant firms has led to concerns of anticompetitive conduct through either abuses of dominant positions or cartel activity (as mentioned in Box 1).

In the case of supermarket chains, the considerable buyer power that they exercise in consumer product value chains has led to "sector inquiries" or investigations by competition authorities in countries like South Africa, Kenya and Botswana. The challenges faced by suppliers and are highlighted in Box 2 below.

[22] das Nair, R, Chisoro, S & F. Ziba (2018). Supermarkets' procurement strategies and implications for local suppliers in South Africa, Botswana, Zambia and Zimbabwe. *Development Southern Africa*, Special Issue - Regional Growth: Prospects and Policies
[23] Bosiu, T. and Vilakazi, T. (2020)

Box 2: Challenges with supplying supermarkets and the exertion of buyer power by supermarket chains

Suppliers have to meet a range of requirements to successfully supply supermarket chains. This entails making investments in their production and distribution capacities. The main requirements include:

- Being cost-competitive;
- Meeting quality requirement, packaging requirements and private standards;
- Being able to produce sufficient volumes to supply all stores within the supermarket network; and
- Maintaining consistency, both of quality and of supply.

Suppliers are regularly audited to ensure that they meet these requirements, and will not get into supermarket supply chains if they cannot meet them. Investments to meet these requirements and audits come at a cost which are often out of the reach of SME suppliers.

Over and above the costs of meeting supermarket requirements, the margins of suppliers, especially those that do not have bargaining power against supermarket chains in the negotiations of trading terms, may be further squeezed if supermarkets abuse their buyer power. Abuse of buyer power can happen through charging unnecessary and unjustified additional costs to suppliers as a condition to supply the supermarket chain. Some of the types of fees that suppliers are forced to pay are given in Table 1. These extra costs lower the price that suppliers get for their products by supermarket chains. In addition to these fees, long payment periods to pay suppliers also puts severe pressure on their cash flow. It is estimated that these costs can cumulatively take 10-15% off the price of the product sold to supermarkets, placing considerable strain on supplier margins.

Table 1: Examples of costs imposed on suppliers in trading terms with supermarkets

Basic rebates off the selling price	Quality assurance allowances
Advertising allowances or rebates (Newspapers, TV, Radio, Pamphlets) to pay for advertising	Wastage allowance/returns/backhaul fees
Listing/Support fees to get onto supermarket supply chains	Fridge space fees
Settlement discounts for early payments	Category management fees to help grow sales of similar category products
Merchandising allowances to compensate for the supermarket's promotional efforts	National/Theme promotion fees
New store opening allowances	Distribution/Warehousing allowances if goods are sold via distribution centres
Others: Growth Incentive discounts; Trade discounts; Channel allowances; Efficiency allowances; Data sharing allowances etc.	

Sources: das Nair, R., 2019 ; das Nair, R, Chisoro, S & F. Ziba., 2018

In South Africa, the Competition Commission's Grocery Retail Market Inquiry[24] made recommendations on buyer power in supplier-supermarket relationships, which included finalising regulations and publishing guidelines for the new buyer power provisions in the Amended Competition Act of 2018.[25] This followed concerns raised about some of the practices noted in Box 2 above which squeeze SME supplier margins. The Buyer Power provision of the Act aims to provide a fair and level playing field for SMEs and historically disadvantaged players. The accompanying guidelines provide detail on what is acceptable in the negotiations of procurement terms and conditions of supply between SMEs and large retailers and processors, and what could be in contravention of the Competition Act.

In Kenya, section 24 of the Competition Act, No. 12 of 2010 gives the Competition Authority of Kenya power to investigate complaints of abuse of buyer power. Emanating from concerns around a culture of late or non-payment by the main supermarket chains to their suppliers, of shelf space allocation, and of promotion of own

[24] http://www.compcom.co.za/wp-content/uploads/2019/12/GRMI-Non-Confidential-Report.pdf, accessed 1 September 2020

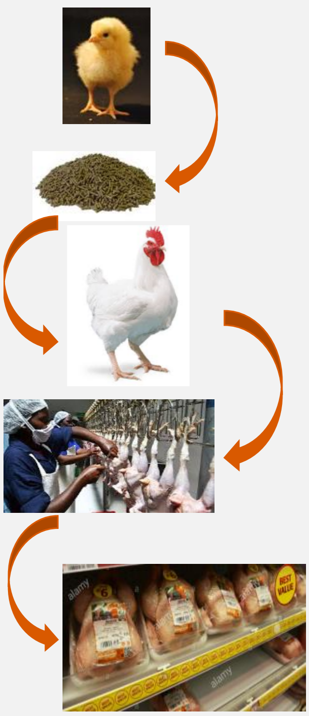
[25] http://www.compcom.co.za/wp-content/uploads/2020/05/Buyer-Power-Guidelines.pdf, accessed 1 September 2020

supermarket brands at the expense of suppliers' brands,[26] these provisions serve to protect vulnerable suppliers, particularly SMEs.

As previously highlighted, house brands or supermarkets' own brands provide opportunities for women-owned businesses. However, they also pose competition challenges. In Botswana, the Competition Authority undertook an inquiry into the sale of house brands. They found that house brands considerably increased the buyer power of supermarkets as they had control over the suppliers for these products. The supermarkets also promoted the sales of house brands at the expense of the branded products that the same suppliers sell by giving them better shelf space, promotions and advertising.[27]

Competition concerns of abuse of dominance have further arisen at the agroprocessing level of food value chains, for instance, in the poultry industry. The poultry value chain in the SADC region is characterised by large, regional multinationals, mainly from South Africa. In South Africa, the poultry industry is highly concentrated at each level of the value chain, from the supply of animal feed and breeding stock, to the production of birds. The industry is also characterised by high degrees of vertical integration. This means that new producers trying to enter into any level of the value chain are reliant on their powerful rivals for critical access to animal feed and breeding stock. The competition cases highlighted in Box 3 reveal how this creates barriers to entry and expansion, especially when the dominant producers engage in behaviour that excludes firms when supplying these inputs (see Box 1 on exclusionary behaviour). As these firms extend their footprint into the region through mergers or acquisitions, there is a risk that such practices spread as levels of concentration rise.

Box 3 Anticompetitive conduct undermines entry of new producers in the poultry industry



An abuse of dominance case was brought to the Competition Commission of South Africa by Country Bird Holdings (CBH), a poultry producer in Zimbabwe and Botswana who subsequently entered South Africa through a joint venture with two large existing producers, Astral Foods and National Chick. These two producers both produce chicken and own the licenses to the breeding stock needed to produce the chickens. That is, they are vertically integrated into input levels of the value chain.

Conditions of the joint venture forced CBH to source at least 90% of its breeding stock from the two producers through exclusive supply agreements. This means that CBH could only source from Astral and National Chick and was not allowed to source from any other seller. Such supply agreements can prevent new producers like CBH from access to competitively priced inputs, forcing them to incur higher costs. Further, this conduct prevented CBH at the time from entering into the upstream level for breeding stock in competition to Astral. After Astral reached a settlement with the Commission, CBH was able to introduce a new bird breed in South Africa, and has since grown significantly in the region. Concerns of exclusion are worsened as the main players also control another level of the value chain – the abattoirs. Without access to abattoirs on fair terms, new producers are disadvantaged.

There have also been separate collusion cases in animal feed and poultry, with producers like Astral admitting to fixing the price of fresh poultry with competitor Pioneer Food's Tydstroom Poultry in some parts of the country. Further cases of price fixing at the animal feed level were also uncovered between two feed companies, Wes Enterprises and MGK Operating Company.

Such conduct, along the entire value chain, has consequences and costs for new producers and limits opportunities for growth in regional value chains where players are prevented from participating.

Source: Ncube, P., S. Roberts and T. Zengeni (2016). Development of the animal feed to poultry value chain across Botswana, South Africa, and Zimbabwe. UNU WIDER Working Paper 2016/2

[26] UNECA (2019). Next steps for the African Continental Free Trade Area. Assessing regional integration in Africa | ARIA IX, Available at: https://www.uneca.org/sites/default/files/PublicationFiles/aria9_en_fin_web.pdf
[27] Bagopi, E., Mbongwe T., Daman C. and G. Modungwa, n.d. In-house brands by retail chain stores in Botswana. Competition Authority of Botswana, Research report.

Like abuses of dominant positions, cartel activity or collusion (as described in Box 1) prevents new producers or suppliers entering and growing within a market. Cartels also directly harm consumers by raising prices and limiting choice. Widespread cartel activity has been uncovered and prosecuted in markets in Southern and East Africa, including in critical input markets in agriculture such as fertiliser supply.

For example, in 2009, cartel conduct in nitrogenous fertiliser products was uncovered in South Africa, which affected the Southern Africa region through exports to the region. Further anticompetitive conduct was uncovered in Zambia around bid rigging of government tenders for fertiliser supply programmes to farmers (the Farmer Input Support Programme). The cartel activity was estimated to cost the Zambian government over $20 million USD over the duration of the cartel (between 2007 and 2011)[28]. Such cartel activity has led to higher prices for farmers in these regions, contributing to higher food prices and low use of fertiliser in the region. Cartel behaviour in such markets has significant knock-on effects throughout food value chains, making food production in Africa less competitive and more expensive than in other parts of the world. This worsens food insecurity. The effects on SMEs and women entrepreneurs in food systems are particularly devastating. Cartel activity, if not unearthed and prosecuted, can severely undermine the gains that the AfCFTA can bring.

What does the AfCFTA mean for business?

Seizing the opportunities and overcoming the challenges discussed above requires active interventions, collaboration, and coordination in markets across borders. It requires public-private partnerships with commitments from national governments, lead firms and development finance institutions to create the required environment for shared investments. Certain strategic sectors, like agriculture and food processing, where there is strong potential for women's participation need to be prioritised and supported. The COVID-19 pandemic has exposed the vulnerability of food systems, and the need to diversify and expand participation in food value chains has never been more critical.[29]

As highlighted, cross-border anticompetitive conduct such as cartels and abuses of dominance undermine economic integration and the benefits of liberalisation. Challenges related to anti-competitive behaviour spreading across borders therefore requires strengthening national and regional competition authorities and greater cooperation between the authorities through sharing of information and resources to timeously investigate suspicious conduct in multiple jurisdictions.

The benefits of the AfCFTA further need to be shared in an equitable manner. Often, lead firms in GVCs and RVCs capture a disproportionate share of the gains from trade.[30] For more balanced trade and more equitable distribution of rents in value chains, the competitiveness of women-owned businesses in the region needs to be developed through appropriate and coordinated regional industrial and competition policies as part of the AfCFTA and the Boosting Intra-African Trade Initiative (BIAT). RVCs need to be incentivised and supported. Constraints such as high transport costs and shortage of skilled labour need to be addressed for more effective integration. Technological and digital developments provide tools that can achieve some of the desired outcomes and can enhance and support value chain participation.

Recommendations and conclusion

Practical interventions and policy recommendations on how some of these objectives can be realised to foster greater inclusion and participation of women-owned business, particularly in food value chains, are discussed below.

(i) The development of the Protocols on Competition Policy in the AfCFTA

Phase 2 of the negotiations, which is expected to be completed by January 2021, will include the protocols on competition policy, in addition to investment and intellectual property rights. With different countries at

[28] Vilakazi. T & S. Roberts (2019). Cartels as 'fraud'? Insights from collusion in southern and East Africa in the fertiliser and cement industries, *Review of African Political Economy*, 46:161, 369-386.
[29]https://www.competition.org.za/ccred-blog-thinkingaheadsa/2020/4/20/are-we-doing-enough-to-support-small-and-medium-sized-food-processors-and-alternative-routes-to-market-during-and-after-covid-19 and https://theconversation.com/covid-19-has-hit-smes-in-south-africas-food-sector-hard-what-can-be-done-to-help-them-142064, accessed on 2 September 2020.
[30] Rodrik D (2018). New technologies, global value chains and the developing economies. Pathways for Prosperity Commission Background Paper Series No. 1. University of Oxford.

different stages of adoption and enforcement of competition policy, Article 5 stipulates that developments in competition policy under the AfCFTA will build on existing institutions. While a one-size-fits-all approach is not recommended given the diversity of economies on the continent, each with unique history and social needs,[31] the experiences, best practices, and successful approaches of the different national and regional authorities should be capitalized upon. This requires:

- An 'audit' of successful and unsuccessful outcomes of the different authorities to develop guidelines for what can work under the AfCFTA.
- Greater collaboration and coordination between the existing institutions and structures both bilaterally and through the existing regional competition bodies.
- In certain areas, where there are clear negative effects of anticompetitive conduct, such as in cartel activity, binding commitments around cooperation on investigations and timeous prosecutions of cases involving multinational firms and firms which export to the continent should be adopted as part of the AfCFTA competition protocol.

Current national competition laws do not specifically take into consideration the impact of anticompetitive conduct on women-owned businesses, although some acts like the South African Competition Act, have a stated purpose to promote greater spread of ownership (in particular to increase the ownership stakes of historically disadvantaged persons, which includes women). Certain acts also have provisions to promote SMEs, which could support women-owned businesses as well. However, if women-owned business are to be seriously promoted, the protocol on Competition Policy in the AfCFTA needs to explicitly consider the impact of anticompetitive conduct on woman-owned businesses.

Many competition authorities pursue a consumer welfare standard where '*business conduct and mergers are evaluated to determine whether they harm consumers in any relevant market'*.[32] This means that if end consumers are not harmed, there is usually no intervention by authorities. The contrasting standard, a total welfare standard, '*seeks to measure the effect of a practice or transaction on the economic welfare of all participants in a market, including both producers and consumers. Put differently, it refers to the aggregate value created, without regard for how gains or losses are distributed*.'[33] The impact on women-owned businesses would only be considered under a total welfare standard.

In this regard, the following actions can be taken:

- The tone of the protocols on Competition Policy to be negotiated as part of the AfCFTA needs to take into consideration a total welfare standard.
- Efforts underway to create a 'Gender Inclusive Competition Policy', for instance, by the Organisation for Economic Co-operation and Development (OECD), which aims to produce a toolkit for competition agencies to embed gender considerations,[34] have to be developed and pursued in the African context.

(ii) Training and capacity building initiatives

Ongoing training and capacity-building of competition authorities is required, along with regular advocacy campaigns, to inform the public and businesses of the competition risks that arise from growing cross-border trade and investments. Advocacy campaigns need to include capacity building programmes for women-owned businesses on how to raise competition concerns to authorities, and what kinds of recourse they have if faced with anticompetitive conduct.

[31] UNECA (2019)
[32] https://www.ftc.gov/es/system/files/documents/public_statements/1455663/welfare_standard_speech_-_cmr-wilson.pdf, accesses on 10 September 2020
[33] https://www.ftc.gov/es/system/files/documents/public_statements/1455663/welfare_standard_speech_-_cmr-wilson.pdf, accesses on 10 September 2020
[34] https://www.oecd.org/competition/gender-inclusive-competition-policy.htm

(iii) Public-private partnerships and engagement with large lead multinationals firms

The development of RVCs which open up opportunities for women-owned businesses requires public-private partnerships (PPP) to ensure market access, capacity building and complementary infrastructure (for example, warehousing, cold storage and testing facilities). Concrete interventions in the AfCFTA need to include compacts with business, government, development finance institutions, NGOs and civil society organisations within and across RECs.

In the case of food value chains, for example, supermarket chains need to:

- Formalise and scale up their enterprise/supplier development programmes (SDPs) in the regions they operate. These need to be designed to explicitly support women suppliers.

- Ensure concrete commitments in terms of proportions of shelf space made available for local and regional women suppliers; as well as other binding targets to be incorporated into these programmes.

- Ensure SDPs link more closely to industrial financing initiatives and other existing support measures of governments and RECs.

- Design such programmes with close partnerships between government and retailers so that efforts reinforce and complement each other.[35]

An example of such an initiative in Africa, although at a national level, is the Namibian Retail Charter of 2016. The initiative was spearheaded by the Namibian government through the Namibia Trade Forum. The Charter stipulates targets for supermarkets, including increasing local procurement from 6% to 20%, and spending on advertising to promote local brands and to develop local suppliers. The government has also provided complementary support to local suppliers like developing local barcoding facilities. Such charters could be extended to different regions in Africa, with both commitments on fair treatment of suppliers and supplier development elements. These efforts can contribute to realising the industrialisation objectives of the AfCFTA.

There are however political economy issues that can arise when considering a regional retail charter and these need to be carefully managed through the AfCFTA. There are tensions between national and regional objectives as countries try to protect and grow their own national industrial base through local content requirements and other industrial policy tools. To buy into the importance of developing regions as a whole which can boost inter and intra-regional trade, significant co-operation between governments is needed to identify at a value chain level where the quid-pro quo gains and losses are.

(iv) Developing alternative routes to market in food systems for more competitive market access

While supermarket chains provide an important route to market through their store networks for women-owned businesses, alternative routes to market (some of which may still be the key routes to market in many parts of Africa) need to be strengthened and developed. These include wet markets, independent retailers and wholesalers, hybrid models of wholesale and retail, and voluntary trading organisations or buyer groups.

Alternative routes to market also include selling directly to end consumers through public procurement, for instance, as part of sales to school, hospital or prison feeding schemes.[36] Public procurement in developing countries is estimated to account for 30-40% of GDP and can be a powerful tool to grow women-owned businesses.[37] Appropriate and aligned public procurement policies and regulations need to be developed at a regional level to ensure equitable treatment of players in the region. This includes collaboration with competition authorities to ensure that there is no anticompetitive conduct such as collusive tendering and bid rigging in public procurement.[38] This should be an area of focus in the AfCFTA Competition Protocol.

A diversity of routes to market benefits women-owned businesses as it gives them multiple options through which they can access markets, reducing their dependency on supermarket chains and therefore improving their bargaining position. The importance of a diversity of markets for SMEs has been emphasised during the

[35] Das Nair, R. and Landani, N. (2020). The role of supermarket chains in developing food, other fast-moving consumer goods and consumer goods suppliers in regional markets, UNU-WIDER working paper 2019/59
[36] https://iiap.info/wp-content/uploads/2020/07/Covid19_MaizeDairy_2206_AB.pdf, accessed on 10 September 2020.
[37] https://www.uneca.org/sites/default/files/PublicationFiles/aria9_en_fin_web.pdf
[38] https://www.uneca.org/sites/default/files/PublicationFiles/aria9_en_fin_web.pdf

COVID-19 pandemic, where restrictions and lockdowns affected the ability to sell through certain routes that SMEs were overly dependent upon, crippling their businesses in food value chains.[39]

Alternative routes to market and diverse retail models must be developed to create more resilient food systems and governments should facilitate the establishment of the required infrastructure to support these. These can be developed with a regional reach in mind, for example, through investments in strategically located warehouses, cold chain facilities or distribution centres that support cross-border trade via alternative routes to market. It can also benefit informal cross-border trade, which is estimated to contribute to 30 to 40% of regional trade in Africa, and up to 43% of incomes. Such informal trade predominantly involves small-scale women traders.[40] Alternative routes to market can support informal trade, allowing them to grow and possibly formalise.

(v) Digitalising value chains

Expanding routes to market and market access and greater participation of women-owned SMEs in value chains can be greatly facilitated through adoption of digital technology. E-commerce is touted to be a 'significant driver and outcome of intra-African trade'.[41] Digital technologies like blockchain are important for traceability requirements under Article 13 of the AfCFTA on Rules of Origin to qualify for preferential treatment. Digital platforms can serve as electronic marketplaces to aggregate consumer and producer demand, lowering barriers to entry and providing opportunities to advertise and access markets. Technology also facilitates information sharing to the benefit of businesses at different levels of value chains and can, through digital payment systems like mobile money and blockchain, facilitate payments to the unbanked.

In the food sector, innovation through "foodtech" investments to link women-owned businesses to suppliers and end markets can be a strong catalyst for trade. This requires providing appropriate financial, skills and capacity support for foodtech start-ups.[42]

An enabling regulatory framework at a regional level, and potentially a code of fair practice, may be required to ensure a competitive landscape so that abuses of dominant positions in digital platforms do not occur. Scale and network economies tend to result in large platforms with considerable market power, and this can lead to abuses of this power.

Phase 2 of the AfCFTA seeks to deal with issues of data, the digital divide, digital identity and e-transaction laws, with the African Digital Trade and Digital Economy Strategy by the African Union Executive Council being an important step in the quest to digitise Africa and deal with issues of the governance of cross-border e-commerce.[43]

[39]https://theconversation.com/covid-19-has-hit-smes-in-south-africas-food-sector-hard-what-can-be-done-to-help-them-142064, accessed on 10 September 2020.
[40] Brenton P and Soprano C (2018). Small-scale cross-border trade in Africa: Why it matters and how it should be supported. Bridges Africa. 7(4):4–6.
[41] UNECA (2019)
[42] https://www.dailymaverick.co.za/opinionista/2020-05-24-combating-covid-19-the-promise-of-foodtech-in-sa/
[43] UNECA (2019).